

AMENDED IN ASSEMBLY JULY 29, 2003

AMENDED IN SENATE JUNE 2, 2003

AMENDED IN SENATE MAY 21, 2003

AMENDED IN SENATE MAY 6, 2003

SENATE BILL

No. 20

Introduced by Senators Sher and Romero

(Principal coauthor: Senator Kuehl)

(Principal coauthor: Assembly Member Jackson)

~~(Coauthor: Assembly Member Pavley)~~

(Coauthor: Senator Figueroa)

(Coauthors: Assembly Members Chu, Koretz, Leno, Levine, Lieber,
Montanez, Pavley, and Wolk)

December 2, 2002

An act to add Article 11.7 (commencing with Section 25243) to Chapter 6.5 of Division 20 of the Health and Safety Code, and to add *Article 4 (commencing with Section 41516) to Chapter 3.5 of Part 2 of, and Chapter 8.5 (commencing with Section 42460) to Part 3 of, Division 30 of the Public Resources Code, relating to hazardous and solid waste.*

LEGISLATIVE COUNSEL'S DIGEST

SB 20, as amended, Sher. Solid waste: hazardous electronic waste recovery, reuse, and recycling.

(1) Existing law prohibits the management of hazardous waste, except in accordance with the hazardous waste laws. Under existing law, the Department of Toxic Substances Control is authorized to exempt, until January 1, 2003, by regulation, a hazardous waste

management activity from the requirements of the hazardous waste control law if the regulation governs a specified type of hazardous waste, including electronic hazardous wastes, identifies the hazardous waste as a universal waste, and amends specified existing regulations of the department. Existing law prohibits the disposal of electronic products in or on land, except as specified. A violation of the hazardous waste control law is a crime.

The bill would require the Department of Toxic Substances Control to adopt regulations *by January 1, 2007, to prohibit the use of hazardous materials in the manufacture of hazardous electronic devices sold in the state, that would prohibit electrical and electronic equipment put on the market from containing chemicals that are prohibited in electrical and electronic equipment put on the market under Directive 2002/95/EC, as adopted by the European Parliament and the Council of the European Union on January 27, 2003.* The bill also would require the department to adopt regulations *by January 1, 2005, to prohibit the use of any electronic or mechanical device that prevents, impedes, or limits the reuse, remanufacture, or recycling of a hazardous electronic device, thereby imposing a state-mandated local program by creating a new crime.*

(2) Existing law requires the California Integrated Waste Management Board to administer state programs to recycle various specified materials.

This bill would enact the Hazardous Electronic Waste Recovery, Reuse, and Recycling Act of 2003. The bill would ~~prohibit any person from selling~~ *make it unlawful to sell* a hazardous electronic device in this state to a consumer, as defined, unless the board determines that the manufacturer of that device is in compliance with the act.

The bill would require a manufacturer or retailer selling a hazardous electronic device in this state to collect an electronic waste collection fee from the consumer and to transmit the fee to the board in accordance with a schedule and procedures that the board would be required to establish. The bill would require the board, by January 1, 2006, and on or before January 1 of every second year thereafter, to establish, and adjust as needed, an electronics waste collection fee schedule for hazardous electronic devices sold in this state and would provide that from January 1, 2004, until January 1, 2006, the electronics waste collection fee would be set in an amount according to a specified fee schedule.



The bill would require each manufacturer of a hazardous electronic device sold in this state, by July 1, 2004, and at least once annually thereafter, to report to the board on the number of hazardous electronic devices sold by the manufacturer in this state during the previous calendar year and to make information available to consumers that describes where and how to return, recycle, and dispose of the hazardous electronic device and opportunities and locations for the collection or return of the device, through specified means.

The bill would require the board, by January 1, 2006, and each year thereafter, to establish annual recycling targets for hazardous electronic devices. The bill would require that, for calendar year 2006, the recycling targets for the amount of hazardous electronic devices recycled in the state equal 50% or more of the hazardous electronic devices sold in the state during the calendar year 2005. The bill would require a manufacturer of a hazardous electronic device, as defined, sold in the state to either establish and implement a hazardous electronic device ~~recovery~~ recycling system ~~that is~~ or to pay a electronic waste recycling fee. The bill would require the hazardous electronic device recycling system to be certified by the board for the ~~collection, handling, transportation receipt~~, processing, ~~recovery, reuse~~, and recycling of the hazardous electronic waste resulting from the devices sold by that manufacturer. The bill would require the hazardous electronic device recycling system to meet specified requirements, including meeting or exceeding the recovery targets established by the board.

The bill would require a manufacturer who elects to pay the electronic waste recycling fee to pay the fee for each hazardous electronic device produced by the manufacturer and sold to a purchaser in this state. The bill would require the board to establish, by January 1, 2005, and to revise as necessary, the electronic waste recycling fee schedule for hazardous electronic devices sold to purchasers in this state. The bill would require the board to base the electronic waste recycling fee on the net cost of an e-waste recycler to receive, process, and recycle a hazardous electronic device from an authorized collector, and to design the fee to generate sufficient funds to cover the net costs of recycling hazardous electronic waste projected to be generated in this state and make electronic waste recovery and recycling payments to electronic waste recyclers. ~~The~~

The bill would require a manufacturer of a hazardous electronic device that sells a hazardous electronic device in the state to notify the board of its intent to sell the device ~~and to prepare and submit to the~~

~~board a hazardous electronic device recovery plan that meets specified standards. The bill would require a manufacturer that intends to export a hazardous electronic waste to provide the department with specified information.~~

The bill would impose civil liability for violations of specified provisions.

~~The bill would require the board to establish and impose a fee on a manufacturer of a hazardous electronic device that submits a plan for review to cover its reasonable costs of implementing the act. The bill would require a manufacturer of a hazardous electronic device who does not submit a recovery plan to the board, or who does not meet specified recovery and recycling targets, to instead pay a fee to the board, in a specified amount. The bill would require the board to deposit the fees collected under the act in the Hazardous Electronic Waste, Recovery, Reuse, and Recycling Account, which the bill would create in the Integrated Waste Management Fund in the State Treasury.~~

~~This bill would authorize the board to expend the moneys deposited in the account, upon appropriation by the Legislature, to implement the act and, among other things, to provide recycling incentive payments to hazardous electronics material handlers, to make electronic waste recycling and recovery payments to electronic waste recyclers and to administer the act. The bill would authorize the board to expend any remaining funds in the account, upon appropriation by the Legislature, to provide grant funds to local governments and nonprofit agencies for the cleanup of electronic devices and programs for recycling hazardous electronic devices, to provide grants to nonprofit agencies to refurbish or recycle hazardous electronic devices, to provide financial incentives to manufacturers of these devices to assist in the recycling of the devices, and to establish public information programs on recycling of hazardous electronic devices.~~

~~The bill would require the board to establish on January 1, 2004, and on January 1 every two years thereafter, an electronic waste recovery payment schedule to cover the net cost of an authorized collector in operating a free and convenient system for collecting, consolidating and transporting hazardous electronic wastes generated in this state and to establish an electronic waste recycling payment schedule to cover an e-waste recycler's net cost of receiving, processing, and recycling a hazardous electronic device from an authorized collector.~~

~~The bill would require the board to pay an e-waste recovery payment and an e-waste recycling payment to an electronic waste recycler, for~~



the hazardous electronic waste generated in this state that is collected and received by the e-waste recycler for recycling. The e-waste recycler would be required to transmit the e-waste recovery payment to an authorized collector or its designated consolidator, for all hazardous electronic waste generated in this state, that is collected and received by the e-waste recycler. The bill would allow an e-waste recycler to receive these payments only if the e-waste recycler meets specified eligibility requirements regarding the e-waste recycler's facilities and to make certain demonstrations if the e-waste recycler intends to export hazardous electronic waste to a foreign destination. The bill would authorize the board to adopt regulations to implement the bill.

(3) Existing law, the California Integrated Waste Management Act of 1989, requires the county or regional agency integrated waste management plan that a county or regional agency is required to submit to the board to contain a household hazardous waste element.

This bill would require, on and after January 1, 2004, that when a county or regional agency revises the county or regional integrated waste management plan and its elements, the city household hazardous waste element and county household hazardous waste element would be required to identify those actions the city, county, or regional agency is taking to promote the collection, consolidation, recovery, and recycling of hazardous electronic waste, thereby creating a state-mandated local program by imposing new duties upon local agencies.

(4) This bill would provide that its provisions are severable.

~~(4)~~

(5) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason reasons.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature finds and declares all of the
2 following:



1 (a) Electronic waste ~~from hazardous electronic devices~~
2 represents one of the fastest growing *and* hazardous components
3 of California's waste stream.

4 (b) According to the United States Environmental Protection
5 Agency, more than 4.3 million tons of appliances and consumer
6 electronics were discarded in 1999.

7 (c) Due to the presence of toxic lead, mercury, or other
8 hazardous or potentially hazardous materials in electronic waste,
9 ~~these devices pose~~ *this waste poses* a particular threat to public
10 health and the environment when improperly discarded.

11 (d) A study conducted by the California Integrated Waste
12 Management Board estimates that California households currently
13 have more than 6,000,000 obsolete computer monitors and
14 television sets "stockpiled" in their homes.

15 (e) A study for the National Safety Council projects that more
16 than 10,000 computers and televisions become obsolete in
17 California every day. The study further projects that three-quarters
18 of all computers ever purchased in the United States remain
19 stockpiled in storerooms, attics, garages, or basements.

20 (f) It is estimated that only 20 percent of obsolete computers
21 and televisions are currently recovered for recycling.

22 (g) ~~Hazardous electronic devices~~ *Electronic waste* recovered
23 for recycling, including devices from California public agencies,
24 ~~have~~ *has* been found to have been illegally handled and discarded
25 in developing countries, posing a significant threat to public
26 health, worker safety, and the environment in those countries.

27 (h) The collection, handling, and management of ~~hazardous~~
28 ~~electronic devices that are~~ *electronic waste that is* currently
29 recovered represents a costly and growing problem for local
30 governments and nonprofit organizations, including Goodwill
31 Industries and the Salvation Army.

32 (i) The high technology sector represents a vital and important
33 part of California's economy.

34 (j) The system to reduce and recycle ~~hazardous electronic~~
35 ~~devices~~ *electronic waste* established pursuant to this act should
36 establish strict and enforceable requirements on all manufacturers
37 of ~~hazardous~~ electronic devices while being cost-effective and
38 providing flexibility to take advantage of the innovation of the
39 high technology sector.

1 (k) The system should also ensure that the state will impose
2 compliance obligations uniformly on all regulated entities to
3 ensure that companies accepting their responsibilities are not
4 penalized by the potential noncompliance of other companies.

5 (l) The system should also be scalable to national,
6 international, and global systems to take into account obligations
7 that may be imposed on manufacturers of hazardous electronic
8 devices beyond those imposed under this act.

9 (m) *The system should ensure that economically viable and*
10 *sustainable markets are developed and supported for recovered*
11 *materials and components in order to conserve resources and*
12 *maximize business and employment opportunities within*
13 *California.*

14 (n) The Governor has requested that the Legislature enact
15 legislation in 2003 challenging industries to assume greater
16 responsibility for the recycling and disposal of electronic waste,
17 stating that “California needs a comprehensive and innovative
18 state law that partners with product manufacturers, establishes
19 recycling targets, and provides for the safe recycling and disposal
20 of electronic wastes.” The Governor further expressed support for
21 a system that “provides incentives to design products that are less
22 toxic and more recyclable.”

23 SEC. 2. Article 11.7 (commencing with Section 25243) is
24 added to Chapter 6.5 of Division 20 of the Health and Safety Code,
25 to read:

26
27 Article 11.7. Phaseout of Hazardous Materials In Hazardous
28 Electronic Devices
29

30 25243. The Legislature finds and declares that it is in the
31 interest of the state to establish a program modeled on the Product
32 Stewardship Initiative undertaken by the European Economic
33 Union to phase out the use of hazardous materials in the
34 manufacture of hazardous electronic devices.

35 25243.5. For purposes of this article, the following
36 definitions apply:

37 (a) “Hazardous electronic device” has the same meaning as
38 defined in Section 42463 of the Public Resources Code.

39 (b) “Hazardous material” has the same meaning as defined in
40 Section 25501.

1 25243.7. ~~On~~ *Notwithstanding any other provision of law, on*
2 *or before January 1, 2007, the department shall adopt regulations*
3 *establishing dates and procedures to prohibit the use of hazardous*
4 *materials in the manufacture of a hazardous electronic device sold*
5 *in the state by the earliest feasible date. that prohibit electrical and*
6 *electronic equipment put on the market from containing the*
7 *chemicals that are prohibited from being contained in electrical*
8 *and electronic equipment put on the market under Directive*
9 *2002/95/EC, adopted by the European Parliament and the*
10 *Council of the European Union on January 27, 2003.*

11 25243.8 On or before January 1, 2005, the department shall
12 adopt regulations prohibiting the use of an electronic or a
13 mechanical device that prevents, impedes, or limits the reuse,
14 remanufacture, or recycling of a hazardous electronic device.

15 SEC. 3. *Article 4 (commencing with Section 41516) is added*
16 *to Chapter 3.5 of Part 2 of Division 30 of the Public Resources*
17 *Code, to read:*

18
19 *Article 4. Hazardous Electronic Waste*
20

21 41516. (a) *For purposes of this article, “hazardous*
22 *electronic waste” has the same meaning as defined in subdivision*
23 *(1) of Section 42463.*

24 (b) *On and after January 1, 2004, when a county or regional*
25 *agency revises the countywide or regional integrated waste*
26 *management plan and its elements pursuant to Section 41770, the*
27 *city household hazardous waste element and county household*
28 *hazardous waste element in the plan shall identify those actions the*
29 *city, county, or regional agency is taking to promote the collection,*
30 *consolidation, recovery, and recycling of hazardous electronic*
31 *waste.*

32 SEC. 4. *Chapter 8.5 (commencing with Section 42460) is*
33 *added to Part 3 of Division 30 of the Public Resources Code, to*
34 *read:*

CHAPTER 8.5. HAZARDOUS ELECTRONIC WASTE ~~RECOVERY,~~
~~REUSE, AND~~ RECYCLING

Article 1. General Provisions

42460. This act shall be known, and may be cited, as the Hazardous Electronic Waste ~~Recovery, Reuse, and~~ Recycling Act of 2003.

42461. The Legislature finds and declares all of the following:

(a) The purpose of this chapter is to enact a comprehensive and innovative system for the reuse, recycling, and proper and legal disposal of hazardous electronic devices, and to provide incentives to design electronic devices that are less toxic ~~and more recyclable~~, *more recyclable, and that use recycled materials*.

(b) It is the further purpose of this chapter to enact a law that establishes a program that is cost free and convenient for consumers and the public to return, recycle, and ensure the safe and environmentally-sound disposal of hazardous electronic devices.

(c) It is the intent of the Legislature that the cost associated with the handling, recycling, and disposal of hazardous electronic devices is the responsibility of the producers and consumers of hazardous electronic devices, and not local government or their service providers, state government, or taxpayers.

(d) In order to reduce the likelihood of illegal disposal of these hazardous materials, it is the intent of this chapter to ensure that any cost associated with the proper management of hazardous electronic devices be internalized by the producers and consumers of hazardous electronic devices at or before the point of purchase, and not at the point of discard.

(e) Manufacturers of hazardous electronic devices, in working to achieve the goals and objectives of this chapter, should have the flexibility to partner with each other and with those public sector entities and business enterprises that currently provide collection and processing services to develop and promote a safe and effective hazardous electronic device ~~recovery, reuse, and~~ recycling system for California.

(f) The producers of electronic products, components, and devices should reduce and, to the extent feasible, ultimately phase out the use of hazardous materials in those products.

(g) Electronic products, components, and devices, to the greatest extent feasible, should be designed for extended life, repair, and reuse.

Article 2. Definitions

42463. For the purposes of this chapter, the following terms have the following meanings, unless the context clearly requires otherwise:

~~(a) “Account” means the Hazardous Electronic Waste Recovery, Reuse, and Recycling Account created in the Integrated Waste Management Fund under Section 42476.~~

~~(b)~~

(a) “Account” means the Electronic Waste Recovery and Recycling Account created in the Integrated Waste Management Fund under Section 42476.

(b) “Authorized collector” means any of the following:

(1) A city, county or district that collects hazardous electronic devices.

(2) A person or entity that is required or authorized by a city, county, or district to collect hazardous electronic devices pursuant to the terms of a contract, license, permit, or other written authorization.

(3) A non-profit organization that collects or accepts hazardous electronic devices.

(4) A manufacturer or agent of the manufacturer that collects, consolidates, and transports hazardous electronic devices for recycling from consumers, businesses, institutions, and other generators.

(5) Any entity that collects, handles, consolidates, and transports hazardous electronic devices and has filed a notification with the department pursuant to Article 7 (commencing with Section 66273.80) of Chapter 23 of Division 4.5 of Title 22 of the California Code of Regulations.

(c) “Board” means the California Integrated Waste Management Board.

~~(e)~~

(d) (1) “Consumer” means a purchaser or owner of a hazardous electronic device.

(2) (A) “Consumer” does not include a manufacturer who purchases specialty or medical electronic equipment that is a hazardous electronic device.

(B) For purposes of this paragraph, “medical electronic equipment” includes, but is not limited to, radiotherapy equipment, cardiology equipment, dialysis equipment, pulmonary ventilators, nuclear medicine equipment, laboratory equipment for in-vitro diagnosis, analyzers and freezers.

(C) For purposes of this paragraph “specialty electronic equipment” includes, but is not limited to, smoke detectors, heating regulators, and thermostats.

~~(d)~~

(e) “Department” means the Department of Toxic Substances Control.

~~(e) “Fee” means the hazardous electronics device recycling and recovery fee imposed by Section 42471.~~

~~(f) “Hazardous electronic device” means any consumer product, component, or device that requires an alternating current or direct current electrical charge for operation and that the department determines is a hazardous material or a hazardous waste. A hazardous electronic device includes, but is not limited to, a television, video monitor, computer monitor, or any other device that has one or more cathode ray tubes containing lead.~~

~~(g)~~

~~(f) “Electronic waste collection fee” or “E-Waste collection fee” means the electronic waste collection fee imposed pursuant to Article 3 (commencing with Section 42464).~~

~~(g) “Electronic-waste recycling fee” or “E-waste recycling fee” means the hazardous electronics device recycling fee imposed pursuant to Section 42471.~~

(h) “Electronic waste recycler” or “E-waste recycler” means any of the following:

(1) A person who engages in the manual or mechanical separation of hazardous electronic devices to recover components and commodities contained therein for the purpose of reuse or recycling.

(2) A person certified by the department who changes the physical or chemical composition of a hazardous electronic device

1 *by deconstructing, size reduction, crushing, cutting, sawing,*
2 *compacting, shredding, or refining for purposes of segregating*
3 *components, for purposes of recovering or recycling those*
4 *components, and who arranges for the transport of those*
5 *components to an end-user.*

6 (3) *A manufacturer with a hazardous electronic waste recycling*
7 *plan certified by the board pursuant to this chapter.*

8 (i) *“Electronics waste recovery payment” or “E-waste*
9 *recovery payment” means the amount established pursuant to*
10 *Section 42477 and paid by the board to an electronics waste*
11 *recycler pursuant to Section 42479, to be transmitted to the*
12 *authorized collector, to cover the net cost of an authorized recycler*
13 *to collect, consolidate, and transport hazardous electronic wastes*
14 *generated in this state to the e-waste recycler.*

15 (j) *“Electronics waste recycling payment” or “E-waste*
16 *recycling payment” means an amount established pursuant to*
17 *Section 42478 and paid by the board to an electronics waste*
18 *recycler pursuant to Section 42479 to cover the net cost of an*
19 *e-waste recycler to receive, process, and recycle hazardous*
20 *electronic waste from an authorized collector.*

21 (k) *“Hazardous electronic device” means a cathode ray tube,*
22 *or cathode ray tube device or any other video display device that*
23 *is greater than four inches in size and that the department*
24 *determines, when discarded, would be a hazardous waste for*
25 *purposes of Chapter 6.5 (commencing with Section 25100) of*
26 *Division 20 of the Health and Safety Code.*

27 (l) *“Hazardous electronic waste” means a cathode ray tube, or*
28 *cathode ray tube device or any other video display device that is*
29 *greater than 4 inches in size and that the department determines*
30 *is a hazardous waste pursuant to Chapter 6.5 (commencing with*
31 *Section 25100) of Division 20 of the Health and Safety Code.*

32 (m) *“Hazardous material” has the same meaning as defined in*
33 *Section 25501 of the Health and Safety Code.*

34 ~~(h)~~

35 (n) *“Manufacturer” means any person who manufactures a*
36 *hazardous electronic device and sells that hazardous electronic*
37 *device in this state.*

38 ~~(i)~~

1 (o) “Registrant” means the manufacturer, or an independent
2 party that submits the plan required by Section 42468 instead of
3 the manufacturer.

4 (p) “Retailer” means a person who sells a hazardous
5 electronic device in the state to a consumer but who did not
6 manufacture the device.

7
8 *Article 3. Electronic Waste Collection and Consolidation Fee*

9
10 *42464. The Legislature finds and declares all of the following:*

11 (a) *The cost of collection, consolidation, and recycling of*
12 *electronic waste should be shared among consumers and the*
13 *manufacturers of those devices.*

14 (b) *The cost of collection and consolidation of electronic waste*
15 *should be covered through the imposition of a collection fee at the*
16 *point of retail sale of a hazardous electronic device.*

17 *42464.1. (a) (1) A manufacturer or retailer selling a*
18 *hazardous electronic device in this state that is subject to this*
19 *chapter shall collect an electronic waste collection fee in the*
20 *amount specified in subdivision (b) or (c), as applicable, from the*
21 *consumer at the time and point of purchase in the amount*
22 *established pursuant to this section. The fee shall be collected for*
23 *all sales of hazardous electronic devices in this state, including,*
24 *but not limited to, a sale made electronically, over the Internet,*
25 *telephonically, or by any other means that results in a hazardous*
26 *electronic device being transported or shipped into the state.*

27 (2) *The electronic waste collection fee collected pursuant to*
28 *this section shall be transmitted to the board in accordance with*
29 *a schedule and procedure that the board shall establish pursuant*
30 *to Section 42475. The electronic waste collection fees shall be*
31 *deposited in the account pursuant to Section 42476.*

32 (3) *A manufacturer or retailer selling a hazardous electronic*
33 *device may retain 3 percent of the electronic waste collection fee*
34 *as reimbursement for any costs associated with the collection of*
35 *the fee.*

36 (b) *On or before January 1, 2006, and on or before January 1*
37 *of every second year thereafter, the board shall establish, and*
38 *adjust as needed, an electronics waste collection fee schedule for*
39 *hazardous electronic devices sold in this state. The board shall*
40 *establish the amount of the electronics waste collection fee at a*

1 level that is sufficient to generate revenues to make the e-waste
2 recovery payments authorized pursuant to Section 42479, to cover
3 the costs of an authorized collector for collecting, consolidating,
4 and transporting hazardous electronic devices generated in this
5 state, in a manner that is cost-free and convenient to consumers.

6 (c) On and after January 1, 2004, and on and before December
7 31, 2005, the electronics waste collection fee shall be collected in
8 the following amounts:

9 (1) Three dollars (\$3) for each hazardous electronic device
10 with a screen size of less than 12 inches measured diagonally.

11 (2) Five dollars (\$5) for each hazardous electronic device with
12 a screen size greater than or equal to 12 inches but less than 20
13 inches measured diagonally.

14 (3) Seven dollars (\$7) for each hazardous electronic device
15 with a screen size greater than or equal to 20 inches but less than
16 28 inches measured diagonally.

17 (4) Nine dollars (\$9) for each hazardous electronic device with
18 a screen size greater than or equal to 28 inches but less than 35
19 inches measured diagonally.

20 (5) Ten dollars (\$10) for each hazardous electronic device with
21 a screen size greater than 35 inches measured diagonally.

22 (6) Notwithstanding paragraphs (1) to (5), inclusive, three
23 dollars (\$3) for each laptop or notebook personal computer that
24 is a hazardous electronic device.

25 Article 3- 4. Manufacturer Responsibility

26 42465. (a) ~~A person may not~~ It shall be unlawful to sell a
27 hazardous electronic device to a consumer in this state unless the
28 board determines the manufacturer of that hazardous electronic
29 device demonstrates compliance with this chapter ~~by either~~
30 ~~establishing and implementing a system certified by the board~~
31 ~~pursuant to Section 42467 or paying a fee pursuant to Section~~
32 ~~42471.~~

33 (b)
34 42465.1. On and after January 1, 2005, a person may not sell
35 or offer for sale in this state a hazardous electronic device unless
36 the device is labeled with the name of the manufacturer or the
37 manufacturer's brand label, so that it is readily visible.
38
39

~~42466. (a) On or after July 1, 2006, if the board determines that the recovery and recycling targets set forth in subdivision (b) are not being met by a manufacturer or registrant of a hazardous electronic device, the manufacturer shall comply with Section 42471 until the board determines that the hazardous electronic device recovery system implemented pursuant to a hazardous electronic device recovery plan certified by the board pursuant to Section 42469 is meeting the targets.~~

~~(b) A hazardous electronic device recovery system established pursuant to Section 42467 and a hazardous electronic device recovery plan prepared pursuant to Section 42468, except as specified in subdivision (c), shall conform with the following recovery and recycling targets:~~

~~(1) On and after January 1, 2005, a manufacturer or registrant is responsible for arranging or otherwise ensuring that an amount of hazardous electronic waste equivalent to not less than 50 percent of the hazardous electronic devices sold by that manufacturer in the state in the previous year is diverted from waste disposal and recovered for reuse or recycling.~~

~~(2) On and after January 1, 2007, a manufacturer or registrant is responsible for arranging or otherwise ensuring that an amount of hazardous electronic waste equivalent to not less than 70 percent of the hazardous electronic devices sold by that manufacturer in the state in the previous year is diverted from waste disposal and recovered for reuse or recycling.~~

~~(3) On and after January 1, 2010, a manufacturer or registrant is responsible for arranging or otherwise ensuring that an amount of hazardous electronic waste equivalent to not less than 90 percent of the hazardous electronic devices sold by that manufacturer in the state in the previous year is diverted from waste disposal and recovered for reuse or recycling.~~

~~(c) The board may either increase or decrease the recovery and recycling targets in subdivision (b) based on a determination of the projected volume of obsolete hazardous electronic devices.~~

~~(d) Notwithstanding the recovery and recycling targets in subdivision (b), state and federal regulations prohibit the disposal of hazardous electronic waste in solid waste disposal facilities and it is the intent of the Legislature that all hazardous electronic waste is managed in accordance with all applicable laws, regulations, and ordinances.~~

1 42465.2. *On or before July 1, 2004, and at least once annually*
2 *thereafter as determined by the board, each manufacturer of a*
3 *hazardous electronic device sold in this state shall do both of the*
4 *following:*

5 (a) *Report to the board the number of hazardous electronic*
6 *devices sold by the manufacturer in this state during the previous*
7 *calendar year.*

8 (b) *Make information available to consumers, that describes*
9 *where and how to return, recycle, and dispose of the hazardous*
10 *electronic device and opportunities and locations for the*
11 *collection or return of the device, through the use of a toll-free*
12 *telephone number, Internet Web site, and information labeled on*
13 *the device, included in the packaging, or accompanying the sale*
14 *of the hazardous electronic device.*

15 42466. (a) *Except as specified in subdivision (b), on and after*
16 *January 1, 2006, and each year thereafter, the board shall*
17 *establish annual recycling targets for hazardous electronic*
18 *devices. In implementing this section, the board shall do all of the*
19 *following:*

20 (1) *Design and adopt recycling targets to establish a specific*
21 *and measurable set of standards of overall program success and*
22 *individual manufacturer accountability for a manufacturer's*
23 *electronics recycling plans.*

24 (2) *Develop and adopt recycling targets, with input from*
25 *manufacturers, retailers, electronic waste recyclers, and*
26 *collectors, that reflect projections of hazardous electronic device*
27 *sales, rates of obsolescence, and stockpiles.*

28 (3) *Develop and adopt recycling targets that achieve the*
29 *elimination of hazardous electronic device stockpiles and legacy*
30 *devices by the end of the year 2007 and end the illegal disposal of*
31 *hazardous electronic devices.*

32 (b) *For the calendar year 2006, the recycling targets for the*
33 *amount of hazardous electronic devices recycled in the state shall*
34 *equal 50 percent or more of the hazardous electronic devices sold*
35 *in the state during the calendar year 2005.*

36 (c) *Notwithstanding the recycling targets established pursuant*
37 *to this section, to the extent that any federal and state law or*
38 *regulation or local ordinance prohibits the disposal of hazardous*
39 *electronic waste at a solid waste disposal facility, hazardous*

1 *electronic waste shall be managed in accordance with those*
2 *applicable laws, regulations, and with all other ordinances.*

3 42467. (a) Except as provided in Section 42471, a
4 manufacturer of a hazardous electronic device sold in the state
5 shall establish and implement a hazardous electronic device
6 ~~recovery system that is certified by the board pursuant to this~~
7 ~~article for the collection, handling, transportation, processing,~~
8 ~~recovery, reuse, and recycling of the hazardous electronic waste~~
9 *recycling system that is certified by the board pursuant to this*
10 *article for the receipt, processing, and recycling of the hazardous*
11 *electronic waste that results from the hazardous electronic device*
12 *sold by that manufacturer.*

13 (b) A manufacturer of a hazardous electronic device that sells
14 a hazardous electronic device in this state shall notify the board of
15 its intent to sell a hazardous electronic device.

16 (c) Any manufacturer or registrant that intends to export
17 hazardous electronic waste to a foreign destination shall comply
18 with all of the following prior to export:

19 (1) Notify the department of the contents, volume, and
20 destination of the proposed export.

21 (2) Demonstrate that hazardous electronic waste will be
22 handled in a manner that is at least as protective of public health
23 and the environment as the laws, regulations, and ordinances
24 applicable to the recycling and disposal of these devices in this
25 state.

26 (3) Demonstrate that the importation of hazardous electronic
27 waste is not prohibited by any applicable law or regulation of the
28 country of destination.

29 (4) *Demonstrate that the hazardous electronic waste is being*
30 *exported for the purposes of reuse or recycling.*

31 (d) In order to minimize costs and confusion in developing a
32 hazardous electronic device recovery system under this section,
33 manufacturers and registrants are encouraged to coordinate with
34 and, to the extent feasible, support the utilization of any existing
35 public and private systems for the collection, handling,
36 transportation, processing, recovery, reuse, and recycling of
37 hazardous electronic waste.

38 (e) A city, county, or public agency may not require consumers
39 to use a system required under this section to recycle hazardous
40 electronic devices to the exclusion of other programs legally

1 available. This chapter anticipates that hazardous electronic
2 device recovery systems in addition to those provided by
3 manufacturers and registrants under this section may be available
4 to consumers in the state. Nothing in this chapter is deemed to
5 prohibit or restrict any other system or to prohibit or restrict any
6 other person from receiving, storing, transporting, or recycling
7 hazardous electronic devices.

8 42468. (a) Except as provided in Section 42471, a
9 manufacturer or a registrant of a hazardous electronic device sold
10 in the state shall prepare and submit to the board a hazardous
11 electronic device recovery plan to establish a hazardous electronic
12 device recovery system that meets all of the following standards:

13 ~~(1) The plan demonstrates that it will result in the efficient~~
14 ~~collection, handling, transportation, processing, recovery, reuse,~~
15 ~~and recycling of hazardous electronic waste that results from the~~
16 ~~hazardous electronic device sold by that manufacturer in this state~~
17 ~~in a manner that is cost free to consumers.~~

18 ~~(2) The plan demonstrates that the manufacturer or registrant~~
19 ~~will provide either directly, or through contracts or other binding~~
20 ~~arrangements with other parties as retailers, local governments, or~~
21 ~~private waste collection companies, one or more opportunities for~~
22 ~~the consumer to return the hazardous electronic devices for~~
23 ~~recovery, reuse, and recycling in a manner that is at least as~~
24 ~~convenient to the consumer as the purchase and delivery of new~~
25 ~~hazardous electronic devices through one or more of the following~~
26 ~~mechanisms:~~

27 ~~(A) The return of the hazardous electronic device at a location~~
28 ~~where the device is sold.~~

29 ~~(B) The mailing or shipping of the hazardous electronic device~~
30 ~~to a recycling or recovery facility, including, but not limited to, a~~
31 ~~facility owned or operated by a manufacturer of these devices.~~

32 ~~(C) The curbside collection or pickup of the hazardous~~
33 ~~electronic device from the consumer.~~

34 ~~(D) The dropoff of the hazardous electronic device at a~~
35 ~~conveniently located recycling or recovery facility. *electronic*~~
36 ~~*waste recycling plan for a hazardous electronic device recycling*~~
37 ~~*system that meets all of the following conditions:*~~

38 ~~(1) The plan demonstrates that the hazardous electronic device~~
39 ~~recycling system will result in the safe and efficient receipt,~~
40 ~~processing, and recycling of hazardous electronic waste generated~~



1 *in this state from authorized collectors and other sources at no cost*
2 *to consumers and authorized collectors and is capable of meeting*
3 *the recycling targets established pursuant to Section 42466.*

4 (2) *The plan includes a signed certification that any facility*
5 *utilized by the manufacturer or registrant for the handling,*
6 *processing, refurbishment, or recycling of a hazardous electronic*
7 *devices meets all of the following standards:*

8 (A) *The facility has been inspected by the department or the*
9 *Certified Unified Program Agency, as defined in Section 25404 of*
10 *the Health and Safety Code, and has been found to be operating*
11 *in compliance with all applicable laws, regulations, and*
12 *ordinances.*

13 (B) *The facility is accessible during normal business hours for*
14 *inspection by state or local regulatory agencies.*

15 (C) *The facility meets or exceeds the standards specified in*
16 *Chapter 1 (commencing with Section 1171) of Part 4 of Division*
17 *2, Division 4 (commencing with Section 3200), and Division 5*
18 *(commencing with Section 6300), of the Labor Code or, if all or*
19 *part of the work is to be performed in another state, the equivalent*
20 *requirements of that state.*

21 (3) *The plan demonstrates that the manufacturer or registrant*
22 *of the hazardous electronic device will make available information*
23 *to every consumer through the use of a toll-free telephone number,*
24 *Internet Web site, and information either labeled on the device,*
25 *included in the packaging, or accompanying the sale of the*
26 *hazardous electronic device, that describes where and how to*
27 *return, recycle, and dispose of the hazardous electronic device and*
28 *opportunities and locations for the collection or return of the*
29 *device.*

30 (4) *The plan demonstrates that all collection, handling,*
31 *transportation, dismantling, processing, refurbishment, and*
32 *recycling of the hazardous electronic device will be done safely*
33 *and in conformance with all applicable laws, regulations, and*
34 *ordinances.*

35 (5) *The plan demonstrates that hazardous electronic waste*
36 *recovered may not be disposed in violation of any applicable law,*
37 *regulation, or ordinance.*

38 (6) *The plan demonstrates that hazardous electronic devices*
39 *sent to a foreign destination will be handled in a manner that is at*
40 *least as protective of public health and the environment as the laws,*

1 regulations, and ordinances applicable to the recycling and
2 disposal of these devices in this state and ensures that no hazardous
3 electronic device will be exported to any country where the
4 importation of hazardous waste is prohibited.

5 (7) The plan demonstrates the capability of meeting or
6 ~~exceeding the recovery targets specified in Section 42466.~~
7 *exceeding the recovery targets established by the board pursuant*
8 *to subdivision (a) of Section 42466 or specified in subdivision (b)*
9 *of Section 42466.*

10 (8) *The plan may include contracts, service agreements, lease*
11 *agreements, or any other information that demonstrates that the*
12 *manufacturer or registrant has binding agreements for accepting*
13 *or otherwise taking back and recycling hazardous electronic*
14 *devices from commercial, governmental, or other institutional*
15 *customers.*

16 (b) If the registrant changes the system that has been submitted
17 to the board, before the change can become effective, the registrant
18 shall submit the changed system to the board and revise its Internet
19 Web site and toll-free telephone information to be consistent with
20 the changed system.

21 (c) The registrant that receives a hazardous electronic device
22 for recycling, refurbishment, or reuse may either recycle,
23 refurbish, or reuse, including resell, the hazardous electronic
24 device. Except to the extent otherwise required by law, the
25 manufacturer and registrant do not have responsibility for any data
26 that may be on the hazardous electronic device if an information
27 storage device is included with the hazardous electronic device.

28 (d) Once per calendar year, each registrant shall file a report
29 with the board that describes the implementation of the system
30 during the year. The report shall identify the total number of
31 hazardous electronic devices received during the preceding year,
32 together with the total number of devices reused or refurbished for
33 reuse, and the total number of devices recycled or resold. The
34 report shall also describe the processes and methods used to
35 recycle, refurbish, or reuse the hazardous electronic devices and,
36 in particular, the report shall identify any disassembly, physical
37 recovery operation including, but not limited to, for, crushing,
38 grinding, or glass to glass recycling, or other operation that was
39 used, and describe where it took place.



42469. (a) Within 90 days of the date that the board receives a hazardous electronic device ~~recovery~~ *recycling* plan submitted pursuant to Section 42468, the board shall review, identify, and suggest amendments, and certify or disapprove the plan at a duly noticed public hearing.

(b) The board shall certify a hazardous electronic device ~~recovery~~ *recycling* plan only if the board determines there is substantial evidence in the record that the plan will comply with all of the standards established pursuant to Section 42468 and be implemented in accordance with those standards.

(c) The board shall establish a schedule for the review and action on a hazardous electronic device ~~recovery~~ *recycling* plan to ensure the consistent, timely, and thorough review of each plan submitted pursuant to this article.

~~(d) The board shall establish and impose a fee on a manufacturer of a hazardous electronic device that submits a plan for review pursuant to this article to cover the board's reasonable costs of implementing this chapter.~~

42470. A registrant may partner with one or more manufacturers or other parties, as a collective registrant, to prepare and submit to the board a joint hazardous electronic device ~~recovery~~ *recycling* plan to comply with Section 42468.

42471. (a) As an alternative to complying with Section 42468, a manufacturer of a hazardous electronic device may remit ~~to the board a hazardous electronics waste device, recycling, and recovery~~ *to the board the electronic waste recycling fee* on each hazardous electronic device sold by the manufacturer in the state.

~~(b) The board shall calculate the amount of the fee required to be paid by a manufacturer pursuant to this section by subtracting the average scrap value, including any negative scrap value, of the hazardous electronic device sold by that manufacturer, or the hazardous waste disposal cost of that device, from the average cost of collecting, processing, and recycling the hazardous electronic scrap, as determined by the board.~~

~~(c) The hazardous electronics waste device, recycling, and recovery fee shall be paid to entities for the collection, processing, and recycling of hazardous electronic waste, in a form and manner determined by the board.~~

(b) *On and after January 1, 2005, a manufacturer who elects to pay the electronic waste recycling fee shall pay the fee pursuant*

1 to this section for each hazardous electronic device produced by
2 the manufacturer and sold to a purchaser in this state.

3 (c) On January 1, 2005, and annually thereafter, the board
4 shall establish and revise as necessary an electronic waste
5 recycling fee schedule for hazardous electronic devices sold to
6 purchasers in this state.

7 (d) The board shall base the amount of the electronic waste
8 recycling fee on the net cost of an e-waste recycler to receive,
9 process, and recycle a hazardous electronic device from an
10 authorized collector, and shall design the fee to generate sufficient
11 funds to make the electronic waste recycling payments pursuant to
12 Section 42479, in an amount that covers the net cost of an
13 electronic waste recycler to receive, process and recycle the
14 hazardous electronic waste projected to be generated in this state.

15 (e) A manufacture who elects to pay the electronic waste
16 recycling fee shall pay the fee for any sale of a hazardous electronic
17 device produced by the manufacturer, including, but not limited to,
18 a sale made electronically, over the Internet, telephonically, or by
19 any other means that result in a hazardous electronic device being
20 shipped to or used in this state.

21 (f) Except as provided otherwise pursuant to subdivision (g),
22 the fees required to be paid pursuant to this section shall be
23 transmitted to the board in accordance with a schedule and
24 procedure to be established by the board pursuant to Section
25 42475.

26 (g) The board may collect the fees imposed pursuant to this
27 section pursuant to the Fee Collection Procedures Law (Part 30
28 (commencing with Section 55001) of Division 2 of the Revenue and
29 Taxation Code). The board may contract with the State Board of
30 Equalization or another party for collection of one or more of the
31 fees due under this section.

32 (h) The electronic waste recycling fees collected pursuant to
33 this section shall be deposited in the account established pursuant
34 to Section 42476.

35 42472. The imposition of a ~~hazardous~~ an electronics waste
36 ~~device, recycling, and recovery fee pursuant to Section 42471 is~~
37 ~~collection fee and electronic waste recycling fee~~ is a matter of
38 statewide interest and concern and is applicable uniformly
39 throughout the state. A city, county, city and county, or other
40 public agency may not adopt, implement, or enforce an ~~ordinance,~~

~~resolution, regulation, or rule establishing a hazardous electronics device recycling and recovery fee unless expressly authorized under this chapter. This section does not prohibit the adoption, implementation, or enforcement of any local ordinance, resolution, regulation, or rule governing curbside or dropoff recycling programs operated by, or pursuant to a contract with, a city, county, city and county, or other public agency, including actions relating to fees for these programs. ordinance, resolution, regulation, or rule requiring a consumer, manufacturer, or retailer to recycle hazardous electronic devices or imposing an electronic waste collection fee or electronic waste recycling fee upon a manufacturer, retailer, or consumer, unless expressly authorized under this chapter.~~

42473. The Legislature declares that the imposition of a ~~hazardous electronics device recycling and recovery fee pursuant to Section 42471~~ *electronic waste collection fee and an electronic waste recycling fee* would not result in the imposition of a tax within the meaning of Article XIII A of the California Constitution, because the amount and nature of the fee has a fair and reasonable relationship to the adverse environmental burdens imposed by the disposal of hazardous electronic devices and there is a sufficient nexus between the fee imposed and the use of those fees to support the recycling and reuse of these devices.

42474. (a) Civil liability in an amount of up to two thousand five hundred dollars (\$2,500) per offense may be administratively imposed by the board for each sale of a hazardous electronic device ~~not covered either by a hazardous electronic device recovery system certified by the board under Section 42467, or by a hazardous electronics waste device, recycling, and recovery fee paid in lieu of the recovery system requirement of Section 42467, as defined in Section 42471.~~ *for which an electronic waste collection fee has not been paid pursuant to Section 42464.1 or which is either not covered by a hazardous electronic device recycling system certified by the board pursuant to Section 42467 or for which the electronic waste recycling fee has been paid pursuant to Section 42471.*

(b) A civil penalty in an amount of up to five thousand dollars (\$5,000) per offense may be imposed by a superior court for each ~~sale of a hazardous electronic device not covered either by a hazardous electronic device recovery system certified by the board~~

~~under Section 42467, or by a hazardous electronics waste device, recycling, and recovery fee paid in lieu of the recovery system requirement of Section 42467, as described under Section 42471. sale of a hazardous electronic device for which an electronic waste collection fee has not been paid pursuant to Section 42464.1 or which is either not covered by a hazardous electronic device recycling system certified by the board pursuant to Section 42467 or for which the electronic waste recycling fee has been paid pursuant to Section 42471.~~

(c) Civil liability in an amount of up to twenty-five thousand dollars (\$25,000) may be administratively imposed by the board against manufacturers or registrants for failure to comply with Section 42465, 42467, 42468, or 42471.

Article 4. 5. Administration

42475. (a) The board shall administer this chapter in consultation with the department.

(b) The board may adopt any regulations pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code that are necessary to implement this chapter.

(c) The board shall adopt regulations pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code that ensure the protection of any proprietary information submitted to the board by a manufacturer of hazardous electronic devices.

(d) The board may prepare, publish, or issue any materials that the board determines to be necessary for the dissemination of information concerning the activities of the board under this chapter.

(e) In carrying out this chapter, the board may solicit and use any and all expertise available in other state agencies, including, but not limited to, the department, the Department of Conservation, and the State Board of Equalization.

Article 5. Financial Provisions

~~42476. (a) The board shall deposit any fees or fines collected under this chapter into the Hazardous Electronic Waste Recovery,~~

~~Reuse, and Recycling Account which is hereby created in the Integrated Waste Management Fund. The funds in the Hazardous Electronic Waste Recovery, Reuse, and Recycling Account may be expended by the board, upon appropriation by the Legislature, for the purposes of implementing this chapter and for the following purposes:~~

~~(1) To provide recycling incentive payments to hazardous electronics material handlers that collect and process hazardous electronics and hazardous electronic devices, if those facilities comply with all of the applicable provisions of Sections 66273.80 to 66273.90, inclusive, of Title 22 of the California Code of Regulations.~~

~~(2) To provide grant funds to local governments for the cleanup of illegally dumped hazardous electronic devices and to establish and maintain local programs that supplement private sector programs pursuant to Section 42467 for the convenient and cost-effective collection and recycling of hazardous electronics and hazardous electronic devices.~~

~~(3) To provide grants to nonprofit agencies that accept for recycling hazardous electronics and hazardous electronic devices.~~

~~(4) To provide financial incentives to manufacturers of hazardous electronic devices to encourage consumers to return the devices for processing, or recycling, and to assist manufacturers in collecting, processing, or recycling hazardous electronic devices.~~

~~(5) To establish a public information program to educate the public on the hazards of improper hazardous electronic device storage and disposal and on the opportunities to recycle hazardous electronic devices. Not more than one percent of funds in the account may be used for the purpose of implementing this paragraph.~~

~~(6) To provide funding to the department to implement and enforce Chapter 6.5 (commencing with Section 25100) of Division 20 of the Health and Safety Code, as that chapter relates to hazardous electronic devices, and any regulations adopted by the department pursuant to that chapter.~~

~~(b) The board may not provide any grant or payment for hazardous electronic devices unless the materials will be handled in compliance with all statutes and regulations regarding the export of hazardous wastes. No grant or payment may be made for~~

~~hazardous electronic devices exported to any country where the
export of hazardous waste is prohibited.~~

~~Article 6. State Agency Procurement~~

Article 6. Financial Provisions

42476. (a) The board shall deposit all fees or fines collected under this chapter into the Electronic Waste Recovery and Recycling Account, which is hereby created in the Integrated Waste Management Fund. The funds in the Electronic Waste Recovery and Recycling Account may be expended by the board, upon appropriation by the Legislature, for the following purposes:

(1) To make electronic waste recovery payments to an authorized collector of hazardous electronics waste pursuant to Section 42479.

(2) To make electronic waste recycling payments to a certified electronic waste recyclers of hazardous electronics wastes pursuant to Section 42479.

(3) To provide for costs of the board and the department to administer this chapter.

(4) To provide funding to the department to implement and enforce Chapter 6.5 (commencing with Section 25100) of Division 20 of the Health and Safety Code, as that chapter relates to hazardous electronic devices, and any regulations adopted by the department pursuant to that chapter.

(b) If, after the board allocates the amount authorized to be expended pursuant to subdivision (a), there is any balance remaining in the Electronic Waste Recovery and Recycling Account, the board may expend the specified portion of any projected balance, upon appropriation by the Legislature, for the following purposes:

(1) To provide grant funds to local governments for the cleanup of hazardous electronic devices that are disposed of in violation of applicable state and local laws, ordinance and regulations, and to establish and maintain local programs for the convenient and free collection and recycling of hazardous electronics and hazardous electronic devices.

1 (2) To provide grants to nonprofit agencies that accept
2 hazardous electronic devices for refurbishing or recycling.

3 (3) To provide financial incentives to manufacturers of
4 hazardous electronic devices to encourage consumers to return the
5 devices for processing, or recycling, and to assist manufacturers
6 in collecting, processing, or recycling hazardous electronic
7 devices.

8 (4) To establish a public information program to educate the
9 public on the hazards of improper hazardous electronic device
10 storage and disposal and on the opportunities to recycle hazardous
11 electronic devices. The board may not expend more than one
12 percent of funds in the account may be used for the purpose of
13 implementing this paragraph.

14 (c) The board may not provide any grant or payment for
15 hazardous electronic devices unless the materials will be handled
16 in compliance with all statutes and regulations regarding the
17 export of hazardous wastes. No grant or payment may be made for
18 hazardous electronic devices exported to any country where the
19 export import of hazardous waste is prohibited.

20 42477. On January 1, 2004, and on January 1 every two years
21 thereafter, the board shall establish an electronic waste recovery
22 payment schedule for hazardous electronic wastes generated in
23 this state to cover the net cost for an authorized collector to operate
24 a free and convenient system for collecting, consolidating and
25 transporting hazardous electronic wastes generated in this state.

26 42478. On January 1, 2004, and on January 1 every two years
27 thereafter, the board shall establish an electronic waste recycling
28 payment schedule for hazardous electronic wastes generated in
29 this state to cover an electronic waste recycler's net cost to receive,
30 process, and recycle a hazardous electronic device from an
31 authorized collector.

32 42479. (a) The board shall make the following payments to
33 an electronic waste recycler, for all hazardous electronic waste
34 generated in this state, that is collected and received by the e-waste
35 recycler for recycling, upon presentation of a completed e-waste
36 recycler invoice in the form adopted by the board:

37 (1) The applicable e-waste recovery payment established
38 pursuant to Section 42477, which shall be transmitted by the
39 e-waste recycler to the authorized collector pursuant to
40 subdivision (c).

1 (2) *The applicable e-waste recycling payment established*
2 *pursuant to Section 42478, which shall be retained by the e-waste*
3 *recycler.*

4 (b) *Notwithstanding subdivision (a), the board may not pay an*
5 *e-waste recycling payment to an e-waste recycler that is a or*
6 *registrant operating a hazardous electronic device recycling*
7 *system established pursuant to Section 42467 for any amount of*
8 *hazardous electronic waste received in a calendar year that is less*
9 *than the amount of hazardous electronic waste specified in the*
10 *recycling targets established pursuant to Section 42466.*

11 (c) *An e-waste recycler shall pay the applicable e-waste*
12 *recovery payment established pursuant to Section 42477 to an*
13 *authorized collector or its designated consolidator, for all*
14 *hazardous electronic waste generated in this state, that is collected*
15 *and received by the e-waste recycler for recycling, upon receipt by*
16 *the e-waste recycler of a shipping report from the authorized*
17 *collector, in the form adopted by the board.*

18 (d) *An e-waste recycler is eligible for a payment pursuant to*
19 *this section only if the e-waste recycler meets all of the following*
20 *requirements:*

21 (1) *The e-waste recycler certifies to the board that the e-waste*
22 *recycler is in compliance with applicable requirements of Article*
23 *6 (commencing with Section 66273.70) of Chapter 23 of Division*
24 *4.5 of Title 22 of the California Code of Regulations.*

25 (2) *The e-waste recycler demonstrates to the board that any*
26 *facility utilized by the e-waste recycler for the handling,*
27 *processing, refurbishment, or recycling of hazardous electronic*
28 *devices meets all of the following standards:*

29 (A) *The facility has been inspected by the department or the*
30 *Certified Unified Program Agency within the past 12 months and*
31 *had been found to be operating in conformance with all applicable*
32 *laws, regulations and ordinances.*

33 (B) *The facility is accessible during normal business hours for*
34 *unannounced inspections by state or local agencies.*

35 (C) *The facility submits health and safety, employee training,*
36 *and environmental compliance plans to the manufacturer or*
37 *registrant and certifies compliance with the plans.*

38 (D) *The facility meets or exceed the standards specified in*
39 *Chapter 1 (commencing with Section 1171) of Part 4 of Division*
40 *2 Division 4 (commencing with Section 3200), and Division 5*

1 *(commencing with Section 6300), of the Labor Code or, if all or*
2 *part of the work is to be performed in another state, the equivalent*
3 *requirements of that state.*

4 *(3) If the e-waste recycler intends to export hazardous*
5 *electronic waste to a foreign destination, the e-waste shall comply*
6 *with all of the following requirements before exporting the*
7 *hazardous electronic waste to that foreign destination:*

8 *(A) Notify the department of the contents, volume, and*
9 *destination of the proposed export.*

10 *(B) Demonstrate that the hazardous electronic waste will be*
11 *handled in a manner that is at least as protective of public health,*
12 *worker safety, and the environment as the laws, regulations, and*
13 *ordinances applicable to the recycling and disposal of these*
14 *devices in this state.*

15 *(C) Demonstrate that the importation of hazardous electronic*
16 *waste is not prohibited by any applicable law or regulation of the*
17 *country of destination.*

18 *(D) Demonstrate that the hazardous electronic waste is being*
19 *exported for the purposes of reuse or recycling.*

20
21 *Article 7. State Agency Procurement*
22

23 42480. (a) A state agency that purchases or leases hazardous
24 electronic devices shall require each prospective bidder, to certify
25 that it, and its agents, subsidiaries, partners, joint venturers, and
26 subcontractors for the procurement, have complied with this
27 chapter and any regulations adopted by the board pursuant to this
28 chapter, or to demonstrate that this chapter is inapplicable to all
29 lines of business engaged in by the bidder, its agents, subsidiaries,
30 partners, joint venturers, or subcontractors.

31 (b) Failure to provide certification pursuant to this section shall
32 render the prospective bidder and its agents, subsidiaries, partners,
33 joint venturers, and subcontractors ineligible to bid on the
34 procurement of hazardous electronic devices.

35 (c) The bid solicitation documents shall specify that the
36 prospective bidder is required to cooperate fully in providing
37 reasonable access to its records and documents that evidence
38 compliance with this chapter.

(d) Any person awarded a contract by a state agency that is found to be in violation of this section is subject to the following sanctions:

(1) The contract shall be voided by the state agency to which the equipment, materials, or supplies were provided.

(2) The contractor is ineligible to bid on any state contract for a period of three years.

(3) If the Attorney General establishes in the name of the people of the State of California that any money, property, or benefit was obtained by a contractor as a result of violating this section, the court may, in addition to any other remedy, order the disgorgement of the unlawfully obtained money, property, or benefit in the interest of justice.

~~Article 7.~~ 8. Inapplicability of Chapter

42485. The board shall not implement this chapter if either of the following occur:

(a) A federal law, or a combination of federal laws, takes effect and does all of the following:

(1) Establishes a program for the collection, recycling, and proper disposal of cathode ray tube devices that is applicable to all cathode ray tube devices sold in the United States.

(2) Provides revenues to the state to support the collection, recycling, and proper disposal of cathode ray tube devices, in an amount that is equal to, or greater than, the revenues that would be generated by the fee imposed under Section 42471.

(3) Requires cathode ray tube device manufacturers, retailers, handlers, processors, and recyclers to dispose of those devices in a manner that is in compliance with all applicable federal, state, and local laws, regulations, and ordinances, and prohibits the devices from being exported for disposal in a manner that poses a significant risk to the public health or the environment.

(b) A trial court issues a judgment, which is not appealed, or an appellate court issues an order affirming a judgment of a trial court, holding that out-of-state manufacturers or retailers, or both, may not be required to collect the fee authorized by this chapter. The order shall be stayed until all appeals are concluded. The out-of-state manufacturers or retailers, or both, shall continue to collect the fee during the appellate process.

~~SEC. 4.~~

SEC. 5. The provisions of this act are severable. If any provision of this act or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

~~SEC. 5.~~

SEC. 6. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the ~~only~~ costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution *or because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act, within the meaning of Section 17556 of the Government Code.*

